

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

PROSTRAKAN, INC. and STRAKAN
INTERNATIONAL S.á r.l.,

Plaintiffs,

v.

ACTAVIS LABORATORIES UT, INC. and
ALLERGAN PLC,

Defendants.

Civil Action No. 2:16-cv-0044

Jury Trial Demanded

**JOINT MOTION TO DISMISS DEFENDANT
ALLERGAN PLC WITHOUT PREJUDICE**

Plaintiffs Prostrakan, Inc. and Strakan International S.á r.l. (“Plaintiffs”) and Defendant Actavis Laboratories UT, Inc. (“Actavis”), jointly move to dismiss Defendant Allergan plc (“Allergan”) without prejudice, in support thereof state as follows:

1. Plaintiffs filed suit against Actavis and Allergan based on Abbreviated New Drug Application (“ANDA”) No. 208726 filed by Actavis;
2. Actavis maintains that Allergan was not and is not a proper defendant in this Action;
3. Actavis agrees and represents that any information relevant to ANDA No. 208726 that may have previously been held by Allergan, is now in the possession, custody, or control of Actavis;
4. Actavis agrees that it will not contest personal jurisdiction in this Court for purposes of the Action only and will not move to dismiss the Action on grounds that the Eastern District Court for the District of Texas lacks jurisdiction over Actavis for purposes of the Action.

Actavis also agrees that it will not contest venue in the Eastern District of Texas in the Action and will not move to change the venue of the Action;

5. Plaintiffs and Actavis agree that this motion is made without prejudice to their respective positions as to whether Allergan is a proper defendant in the Action, and whether Actavis is subject to personal jurisdiction in this Court, and that the agreements and representations herein cannot be used by Plaintiffs or Actavis to argue for or against jurisdiction in the future.

6. Plaintiffs and Actavis further agree that the caption for the Action should be amended to remove Allergan as follows:

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v.

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WHEREFORE, Plaintiffs and Actavis pray the Court enter an order granting this motion, dismissing Allergan plc without prejudice, amending the case caption as described above, and for all other relief that the Court finds just and appropriate.

November 17, 2016

Respectfully submitted,

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*Attorneys for Plaintiffs ProStrakan, Inc. and
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CERTIFICATE OF SERVICE

The undersigned certifies that on November 17, 2016, all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document through the Court's CM/ECF system under Local Rule CV-5(a)(3). Any other counsel of record will be served by a facsimile transmission and/or first class mail.

//Larry A. Phillips/
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